



Substantive Change

Effective Date: January 1, 2018

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I. Purpose

This policy defines the types of institutional changes that are considered “substantive” and therefore require approval by the Commission of the Middle States Commission on Higher Education or the Executive Committee on its behalf (herein after the Commission), in advance of the change's effective date. See also *Substantive Change Procedures* and the Substantive Change Request Forms specific to the type of change.

II. Statement of Policy

Certain types of institutional changes are defined as “substantive” by the United States Department of Education (USDE). Substantive changes are not automatically covered by the institution’s accredited or candidate status. Accredited and candidate institutions planning a substantive change have the responsibility to obtain **prior approval from the Commission** before the change is effective. **Retroactive approval is not available.** Institutions are strongly urged to contact the designated staff liaison if there is doubt as to whether or not a proposed change falls within the definition of “substantive”. Unless otherwise specified in a Commission action, the earliest allowable effective date of a proposed substantive change is the date of the Commission’s action.

Accreditation or reaffirmation of accreditation is granted to an institution as it exists at the time of evaluation and cannot be acquired by or transferred or extended to a non-accredited institution or organization. While the decision to modify an institution is an institutional prerogative and responsibility, the Commission is obligated to ensure that any substantive change does not adversely affect the capacity of the institution to continue to meet accreditation standards and requirements of affiliation. For all types of substantive change, the member institution must demonstrate, to the satisfaction of the Commission, that it meets or will continue to meet the *Standards for Accreditation and Requirements of Affiliation* after the substantive change occurs. The institution assures that an affiliation with partner institutions does not adversely affect the member institution’s capacity to continue to meet accreditation standards and requirements of affiliation.

For institutions that participate in federal Title IV (student financial aid) programs, failure to obtain prior approval from the Commission may result in the USDE requirement that the institution reimburse the government for funds received related to the substantive change or the loss of Title IV funding. Approval of a substantive change by the Commission does not guarantee Title IV eligibility.

A substantive change may be considered “complex” by the Commission or staff on its behalf, depending on the nature of the change. The definition of complex substantive change is provided in the definitions section of this policy and in *Substantive Change Procedures*. The staff liaison will advise the institution about how to proceed with a complex substantive change. A complex substantive change may necessitate consideration of academic, financial, and legal matters, and the parties involved should anticipate that a longer approval time may be required.

All accreditation materials submitted to the Commission as part of a substantive change request are confidential in accordance with Commission policy *Communication in the Accreditation Process*.

III. Commission Review and Action

Based on its review of a request for substantive change, the Commission may take any action in accordance with the policy *Accreditation Actions*. The Commission reserves the right to decline to review a substantive change request submitted by any institution that is not in compliance with the Commission’s accreditation standards and requirements of affiliation (including institutions that are subject to warning, probation, show cause, or withdrawal of accreditation or candidate status), or the Commission’s policies, guidelines, or procedures.

The Commission may rescind its approval of the substantive change if all required external approvals are not received by the Commission or the change is not implemented by the member institution within one calendar year.

New comprehensive review. In accordance with federal regulations (34 CFR §602.22(a)(3)), the Commission may request a *new comprehensive evaluation* of the institution when changes made or proposed by an institution are or would be sufficiently extensive to warrant closer examination. Changes such as significant change in mission, change in legal status, form of control or ownership, student population, institutional type, or significant enrollment growth or rapid expansion of locations may be considered by the Commission in directing the institution to undertake an early self-study evaluation, undergo a review of its Candidate status, or otherwise demonstrate that it is in compliance with accreditation standards and requirements of affiliation.

IV. Types of Substantive Change

In accordance with federal regulations, the Commission considers the following types of changes to be substantive and therefore to require Commission approval before the change is effective:

1. Mission or Objectives

Federal regulations require prior approval of any change in the established mission or objectives of the institution (34 CFR §602.22(a)(2)(i)).

Such changes include but are not limited to any change that leads to a fundamental shift in the nature of the institution or other event(s) deemed to be significant by the Commission, whether or not specifically listed in this policy or in the regulations of the USDE. Editorial changes in the language of a mission statement are not substantive and do not require Commission approval.

2. Legal Status, Form of Control, or Ownership

Federal regulations require prior approval of a change in the legal status of the institution, form of control, or ownership of the institution (*34 CFR §602.22 (a)(2)(ii) and (ix) and 34 CFR §600.31*).

The types of transactions that constitute a change of legal status, form of control or ownership of an institution are defined in the Definitions provided below. In all such cases, all member institutions involved in the transaction must demonstrate subsequent to the change in legal status, form of control, or ownership, to the satisfaction of the Commission, that they meet or will continue to meet the accreditation standards and requirements of affiliation.

If the transaction involves an institutional closure, the Commission requires a teach-out plan and/or agreement describing how any students remaining in the program will be accommodated. Approvals from all licensing, regulatory or other legal entities must also be provided.

Early notification. The Commission requires an institution planning a change in legal status, form of control, or ownership of the institution to notify the staff liaison *as soon as it is aware of the potential change* (*34 CFR §602.24(b)*).

Site Visits. During the review process and prior to approval, Commission representatives may conduct a site visit to one or all entities involved in the transaction.

Further, federal regulations require that the Commission undertake a site visit to the institution after it has undergone a change in legal status, form of control, or ownership, or other change that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership (*34 CFR §602.24(b)*). The Commission may conduct this site visit to one or all entities involved in the transaction.

3. Significant Departure from Existing Educational Programs

Federal regulations require prior approval for the addition of programs that are a significant departure from the offerings of educational programs that existed and were previously included within the scope of the institution's accreditation (*34 CFR §602.22(a)(2)(iii)*).

The Commission defines "significant departure" from offerings as the addition of credit-bearing programs that are not a logical extension of programs currently offered by the institution.

4. Alternative Delivery Method

Federal regulations require prior approval of the addition of courses or programs that are a significant departure from the methods of delivery that existed and were previously included within the scope of the institution's accreditation (*34 CFR §602.22(a)(2)(iii)*).

The Commission requires prior approval for the first two degree or academic programs for which 50 percent or more of the degree or academic programs will be offered through an alternative method of delivery (distance education, correspondence education, etc.). The 50 percent standard includes only courses offered in their entirety (100 percent) via an alternative

delivery method, not courses utilizing mixed delivery or hybrid methods.

5. Direct Assessment/ Competency Based Education (CBE) Programs

Federal regulations require prior approval for the initiation or expansion of direct assessment or competency based education programs (*34 CFR §668.10*).

The Commission requires prior approval of all programs for which 100% of student progression through a program is completed through the direct assessment of competencies (and not through the completion of credit hours). See the Commission guidelines *Degrees and Credits* for related federal regulation guidelines regarding competency-based programs.

Please note: In accordance with 34 CFR §668.10(g) Direct assessment programs, Title IV, HEA program eligibility with respect to direct assessment programs is limited to direct assessment programs approved by the Secretary.

6. Different Credential Level

Federal regulations require prior approval of the addition of programs of study at a degree or credential level that is different from those that existed and were previously included within the scope of the institution's accreditation (*34 CFR §602.22(a)(2)(iv)*). Multiple credential levels submitted at one time may require the submission of a complex substantive change.

The Commission requires prior approval for the addition of the first two programs offered at each degree or credential level (including certificate programs) that is different from those that existed and were previously included within the scope of the institution's accreditation. The Commission uses IPEDS (Integrated Postsecondary Education Data System) definitions for specific certificate, degree, or credential levels.

- After Commission approval of the first two programs, new programs at an existing degree or credential level ordinarily do not require Commission review. However, the addition of such programs may necessitate prior approval if these new programs are a significant departure as defined under #3 in this policy.
- Branch campuses and additional locations operate with some independence from the main campus. Therefore, the Commission may require additional review prior to the addition of programs at a different degree or credential level at such locations, even if the main campus currently offers the same degree or credential level.

7. Clock Hours to Credit Hours

Federal regulations require prior approval of a change from clock hours to credit hours in one or more institutional programs (*34 CFR §602.22(2)(v)*).

The Commission requires prior approval for each program an institution plans to convert from clock hour to credit hour.

8. Number of Clock or Credit Hours

Federal regulations require prior approval of a substantial increase or decrease in the number of clock or credit hours awarded for successful completion of a program (*34 CFR 602.22(2)(vi)*).

The Commission requires prior approval if an institution plans a substantial increase or

decrease in the number of credits awarded without a change in content or change in number of courses required for completion of the program. This typically applies to a change of at least 20 percent in the number of clock or credit hours awarded or required.

9. Contractual Arrangements

Federal regulations require prior approval of contractual arrangements with an institution or organization that is not certified to participate in the Title IV federal student financial aid funding programs when the non-accredited entity offers more than 25 percent of the accredited institution's educational programs (34 CFR §602.22(a)(2)(vii)).

The Commission requires prior approval for the initiation of contractual arrangements when an institution enters into a contract under which 25 percent of one or more of the institution's educational programs leading to an academic or professional degree, certificate, or other recognized educational credential, will be offered by a third-party provider that is not accredited by an accreditor recognized by the USDE.

Please note: 34 CFR §668.5(3)(ii)(A) stipulates that Title IV federal student financial aid funding is not available for educational programs that are provided through contractual arrangements between an accredited institution and an ineligible entity wherein more than 50 percent of the educational program is being provided by the ineligible entity.

10. Establishment of Additional Locations

Federal regulations require prior approval for the establishment of an additional location at which the institution offers at least 50 percent of an educational program (34 CFR §602.22(a)(2)(viii)(A)).

The Commission requires prior approval to establish a new additional location, including an additional location acquired from another institution, as part of an agreement to teach-out students from another institution. Please see the Definitions section of this policy. Some additional locations might be subject to other substantive change policies, including contractual arrangements, for the provision of courses or educational services at the location.

The Commission may include the additional location within the scope of accreditation only after it determines that the institution has the fiscal and administrative capacity to operate the additional location and continues to meet accreditation standards and requirements of affiliation (34 CFR §602.22(a)(2)).

The Commission requires written notification within thirty days of the open date or the commencement of operations at the additional location. In the event that operations at the additional location do not commence within one calendar year from the date of the Commission's action, approval may lapse.

The institution will be assessed annual site dues and site visit fees in accordance with the Commission's policy *Schedule of Dues and Fees*. Additional locations that are international (outside of the United States) will be assessed additional fees.

Site Visits. As part of the approval process, the Commission is required by federal regulations to

conduct a site visit to the first three additional locations as soon as practicable, but no later than six months after the commencement of instruction at the additional location (*34 CFR §602.22(c)(1)*). The purpose of the site visit is to verify that the additional location has the personnel, facilities, resources, fiscal and administrative capacity described in its substantive change request (*34 CFR §602.22(d)*).

However, if the institution has been placed on warning, probation, or show cause by the Commission or is subject to some limitation by the Commission on its accredited or candidate status, a site visit is required (*34 CFR §602.22(c)(1)(iii)*). Unless waived, the Commission also requires a site visit to the first international additional location, regardless of the number of domestic additional locations that have been approved.

- At the time of the self-study evaluation and at other times deemed appropriate by the Commission, the Commission may conduct site visits by visiting one third of active additional locations if the institution operates more than three active additional locations (*34 CFR §602.22(c)(2)*). The Commission considers an additional location to be “active” when it is operational with students enrolled.
- The Commission may, at its discretion, request additional information and/or conduct site visits to a representative sample of additional locations at institutions that experience *rapid growth* in the number of additional locations to ensure that they maintain educational quality (*34 CFR §602.22(c)(3)*).
- Commission actions contingent on visits to international additional locations are subject to travel advisories and security warnings as explained in the Commission’s procedures *International Travel by Commission Staff and Volunteers*.

11. Establishment of a Branch Campus

Federal regulations require prior approval of the establishment of a branch campus (*34 CFR §602.24(a)*).

The Commission requires prior approval to establish a new branch campus, including a branch campus acquired from another institution as part of an agreement to teach-out students from another institution. Please see the Definitions section of this policy for definitions of branch campus, teach-out plan and teach-out agreement. The substantive change request must include a business plan for the branch campus that describes: (i) the educational program(s) to be offered; (ii) the projected revenues and expenditures and cash flow; and (iii) the operation, management, and physical resources at the branch campus (*34 CFR §602.22(a)(1)*).

The Commission may include the branch campus within the scope of accreditation only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to meet accreditation standards and requirements of affiliation (*34 CFR §602.22(a)(2)*).

The Commission requires written notification within thirty days of the open date or the commencement of operations at the branch campus. In the event that operations at the branch campus do not commence within one calendar year from the date of the action, approval may lapse.

Upon approval of a branch campus, the institution will be assessed annual site dues and site visit fees in accordance with the Commission's policy *Schedule of Dues and Fees*. Branch Campuses that are international (outside of the United States) will be assessed additional fees.

Site Visits. As part of the approval process, the Commission is required by federal regulations to conduct a site visit to each branch campus as soon as practicable, but no later than six months after the commencement of instruction at the branch campus (*34 CFR §602.24(a)(3)*). The purpose of the site visit is to verify that the branch campus has the personnel, facilities, resources, fiscal and administrative capacity described in its substantive change request.

- At the time of the self-study evaluation and at other times deemed appropriate by the Commission, the Commission will conduct site reviews of each active branch campus. The Commission considers a branch campus to be “active” when it is operational with students enrolled.
- The Commission may, at its discretion, request additional information and/or conduct site visits to a representative sample of branch campuses of institutions that experience *rapid growth* in the number of branch campuses to ensure that they maintain educational quality.
- Commission actions contingent on visits to international branch campuses are subject to travel advisories and security warnings as explained in the Commission's procedures *International Travel by Commission Staff and Volunteers*.

12. Site Closure, Relocation or Reclassification

The Commission requires prior approval to close, relocate, or reclassify a site (change in category among branch campus, additional location, or other instructional sites). Approvals from all necessary licensing, regulatory, or other legal entities must be provided. Please see the Definitions section of this policy. A site visit is required for the relocation of a main campus, all branch campuses, and additional locations when the institution has fewer than three approved additional locations.

A. Closure. The Commission requires prior approval if an institution intends to close a main campus, branch campus, or additional location. If the site provides 100 percent of at least one program, the institution must also provide a teach-out plan describing how any students remaining in the program will be accommodated (*34 CFR §602.24(c)(1)(iii)*).

B. Relocation. The Commission requires prior approval if an institution intends to move an existing approved main campus, branch campus, or additional location to a new physical location. The institution must submit a substantive change request to *relocate* the site. The Commission does not require substantive change approval to correct spelling, typographical, or other changes required by the United States Postal Service.

C. Reclassification. The Commission requires prior approval if offerings at an existing site change enough to move the site into a new category (see definitions of branch campus, additional location, or other instructional site). The institution must submit a substantive change request to *reclassify* the site.

13. Planned Institutional Closures

Federal regulations require prior approval of plans for institutional closure (*34 CFR §602.24(c)*).

In addition to the substantive change request, the Commission requires a teach-out plan describing how any students remaining in the program will be accommodated. The

Commission may also require one or more teach-out agreement(s). Approvals from all licensing, regulatory or other legal entities must also be provided.

14. Experimental Sites Initiatives (ESI) as Required by the US Department of Education

USDE has invited a limited number of institutions to participate in various Experimental Sites Initiatives (ESI) intended to encourage institutional innovation. Certain ESI programs require MSCHE approval prior to being included within an institution's scope of accreditation.

The Commission requires prior approval, before implementation, of ESI programs as required by the US Department of Education. Institutions are required to submit substantive change requests for each ESI program that requires accreditor approval. Institutions are reminded that participation in ESI initiatives is contingent upon acceptance of institutions into the initiative by USDE. Institutions that are planning ESI programs that require accreditor approval should contact the MSCHE staff liaison as soon as possible. The Commission will work with institutions to obtain Commission review through the substantive change process.

V. Definitions

The following definitions provide more information regarding substantive change:

- A. Additional Location.** An additional location is a domestic or international location, other than a branch campus, that is geographically apart from the primary/main campus and at which the institution offers at least 50 percent of the requirements of an educational program. (*34 CFR §602.22*)

- B. Branch Campus.** A branch campus is a domestic or international location of an institution that is geographically apart, independent of the primary/main campus. The branch campus is considered independent of the main campus if it is permanent in nature; offers courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority. (*34 CFR §600.2*)

- C. Change of Ownership.** A change in ownership of an institution resulting in a change in control may include, but is not limited to, the following types of transactions (*34 CFR §600.31*):
 - 1) the acquisition of the institution by another entity;
 - 2) the acquisition by the institution of another educational entity;
 - 3) a merger with another institution;
 - 4) a consolidation with another institution;
 - 5) the division of one institution into two or more institutions;
 - 6) the sale of an institution;
 - 7) the acquisition or sale of a controlling interest in an institution
 - a. a controlling interest in a for-profit entity is a shareholder who holds or controls both 25 percent or more of the outstanding shares and more shares of voting stock than any other shareholder. If the change in ownership is due to the retirement or death of the owner or a controlling shareholder, and the ownership is transferred either to a family member or to a person with ownership interest who has been involved in the

management of the institution for at least two years preceding the transfer, the institution should contact the staff liaison to determine whether approval is necessary (34 CFR §600.31);

b. for a nonprofit entity, a controlling interest is the acquisition by an entity of the ability to control the material decisions of the governing board through the ownership of a membership interest in the institution or control through reserved powers of appointment of board members and/or approval of fundamental corporate actions of the institution;

8) beginning or ending public sponsorship and control;

9) the transfer of the liabilities of an institution to its parent corporation;

10) a transfer of substantially all the educational business of an institution, including a transfer through a joint venture or other contractual arrangement;

11) a change in status as a for-profit, nonprofit or public institution (i.e. legal status for purposes of compliance with federal regulation); or

12) any other transaction or modification of the ownership or governing body of the institution that changes, or has the potential to change the control of the institution or its fundamental structure or organization. Please see Definitions.

The granting of a security interest in the assets of the educational business of an institution does not constitute a change in control. A change of control involving two institutions, one within the Commission's region and another outside of the region, requires the review and approval of the Commission.

D. Clock Hour. A clock hour is a unit of measure that represents an hour of scheduled instruction given to students. It is also referred to as contact hour. (34 CFR §600.2)

E. Competency Based Education (CBE). A CBE program is one that organizes content according to what a student knows and can do, often referred to as a “competency.” CBE programs also generally have clear claims for student learning, stress what students can do with the knowledge and skills they acquire, and have assessments that provide measurable evidence of competency. Student progress is determined by mastery of each competency. Because CBE focuses on whether students have mastered these competencies, there is a focus on learning outcomes rather than time spent in a classroom. (34 CFR §602.3)

F. Complex Substantive Change. If the proposed change is sufficiently complex that it requires more in-depth review or requires the Commission to assign or engage a consultant with appropriate expertise to the type of change (e.g., accounting, legal, etc.), it is considered a complex substantive change. The following substantive change types are always considered complex: Changes in legal status, form of control, or ownership and EQUIP Experimental Site Initiatives with the United States Department of Education (USDE). However, in addition to these, any of the types of substantive change may be considered “complex” by the Commission or staff on its behalf, depending on the nature of the change. Examples include (but are not limited to) change in the status of multiple locations, multiple types of change that are submitted simultaneously, and some institutional closures. See *Substantive Change Procedures*.

G. Contractual Arrangement. The initiation of a contractual or other arrangement wherein an institution outsources some portion of one or more of its credit bearing educational programs or educational business operations to a third-party provider or an institution that

is not accredited by an accreditor recognized by the USDE, unless approved by the Commission under ESI.

- H. Control.** Control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an institution, corporation, partnership, other entity, or individual, whether through the ownership of voting securities, by contract, in governance documents, or otherwise (*34 CFR §600.31(b)*). The indirect power to direct or cause the direction of management of an institution means the right of another entity to appoint a majority of the governing board representatives or the reservation by another entity of the right to decide or to approve certain fundamental decisions of an institution.
- I. Correspondence Education.** Correspondence education means education provided through one or more courses by an institution under which the institution provides instructional materials by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructor. Interaction between the instructor and the student is limited, not regular and substantive, and is primarily initiated by the student. Correspondence courses are typically self-paced. Correspondence education is not distance education. (*34 CFR §602.3*)
- J. Credit Hour.** A credit hour is a unit of measure representing the equivalent of an hour (50 minutes) of instruction per week over the entire term. (*34 CFR §602.3*)
- K. Direct Assessment.** A direct assessment program is an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, and meets the conditions of *34 CFR §668.10*. See also competency-based education. (*34 CFR §602.3*)
- L. Distance Education.** Distance education means education that uses one or more of the following technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously: (i) the internet; (ii) one-way or two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; (iii) audio conferencing; or (iv) video cassettes, DVDs, and CD-ROMs used in a course in conjunction with the previous technologies. (*34 CFR §600.3*)
- M. Other Instructional Site.** MSCHE defines an other instructional site as any off-campus site, other than those meeting the definition of a branch campus or an additional location, at which the institution offers one or more courses for credit. Sites designated as an other instructional site do not require substantive change approval. However, substantive change approval is required to *reclassify* an other instructional site to or from a branch campus or additional location.
- N. Teach-Out Agreement.** A teach-out agreement means a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an

institutional location that provides 100 percent of at least one program offered, ceases to operate before all enrolled students have completed their program of study. (34 CFR §602.3)

- O. Teach-Out Plan.** A teach-out plan is a written plan developed by the institution that provides for the equitable treatment of students to complete their education, including any teach-out agreements that the institution has entered into or intends to enter into with another institution. (34 CFR §602.3)

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Related Documents: *Substantive Change Procedures; Travel Expenses; Schedule of Dues and Fees; Merging or Closing a Postsecondary Institution or Program Site; International Travel by Commission Staff and Volunteers; Contracts by Accredited and Candidate Institutions for Education-related Services; Degrees and Credits; Related Entities; Separately Accreditable Institutions; Substantive Change Visits; C-RAC Statement of Competency-Based Education (June 2015)*

Federal Regulations: 34 CFR Part §602 The Secretary's Recognition of Accrediting Agencies, §602.22 Substantive change and §602.24(b) Change in ownership; 34 CFR Part §668: Student Assistance General Provisions; and 34 CFR Part §600.31 – Change in ownership resulting in a change in control for private nonprofit, private for-profit and public institutions.